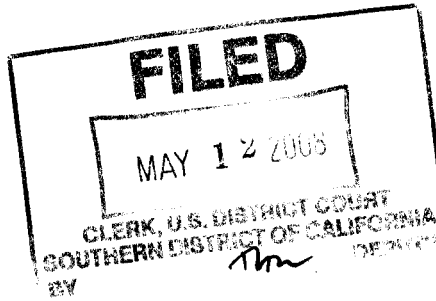


AUSA



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Rogelio GARCIA Diaz,

Defendant.

Magistrate Case No.: **'08 MJ 84 05**

COMPLAINT FOR VIOLATION OF

21 U.S.C. § 952 and 960
Importation of a Controlled Substance
(Felony)


The undersigned complainant being duly sworn states:

That on or about May 10, 2008, within the Southern District of California, defendant Rogelio GARCIA Diaz, did knowingly and intentionally import approximately 35.72 kilograms (78.58 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Sections 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.


Special Agent
Immigration and Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS 12
DAY OF MAY, 2008.


Peter C. Lewis
U.S. MAGISTRATE JUDGE

1 **UNITED STATES OF AMERICA**

2 **v.**

3 **Rogelio GARCIA Diaz**

4 **STATEMENT OF FACTS**

5 This complaint is based on the personal observations, investigation, and
6 information furnished to Bureau of Immigration and Customs Enforcement Special
7 Agent Christina Gauthreaux.

8 On May 10, 2007, at approximately 1926 hours, Rogelio GARCIA Diaz entered
9 the United States from the Republic of Mexico at the Calexico, CA, West Port of Entry.
10 GARCIA was the driver of a blue 1992 Jeep Cherokee.

11 Primary Customs and Border Protection (CBP) Officer E. Sabori received a
12 negative Customs Declaration from GARCIA. GARCIA presented his valid immigration
13 document. While conducting an inspection of the vehicle, CBP Officer Sabori tapped
14 the gas tank and noticed it sounded solid. CBP Officer Sabori also noticed that when
15 he questioned GARCIA, GARCIA avoided eye contact. CBP Officer Sabori decided to
16 escort the vehicle to the secondary lot for further inspection.

17 In secondary, the CBP Officer Pelayo received the vehicle. CBP Officer Pelayo
18 requested that Canine Enforcement Officer (CEO) E. Leon utilize his Narcotics Detector
19 Dog (NDD) to screen the vehicle. The NDD alerted to the cargo area of the vehicle
20 driven by GARCIA.

21 CBP Officer Pelayo noticed that the screws that held the carpet down appeared
22 shinny and recently tampered with. A thorough physical search of the vehicle revealed
23 an access plate in the cargo area of the vehicle, which lead to the gas tank. CBP
24 Officer Pelayo removed the carpet and the access plate with a screwdriver he found in
25 the vehicle. Once the access plate was removed black packages could be seen. CBP
26 Officer Pelayo removed one package. A presumptive field test indicated the contents of
27 these packages to be marijuana. Thirty-Four (34) packages were discovered in the gas
28
29

1 tank. The total weight of the packages was approximately 35.72 kilograms (78.58
2 pounds).

3 GARCIA was notified of his arrest and advised of his Miranda Rights, which he
4 acknowledged and waved. GARCIA admitted knowledge of the controlled substance
5 and stated he was to be paid approximately \$1400.00 for the smuggling venture.
6 GARCIA was processed and transported to Imperial County Jail.
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